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Mr. Herbert Spencer on the land question

London

1894

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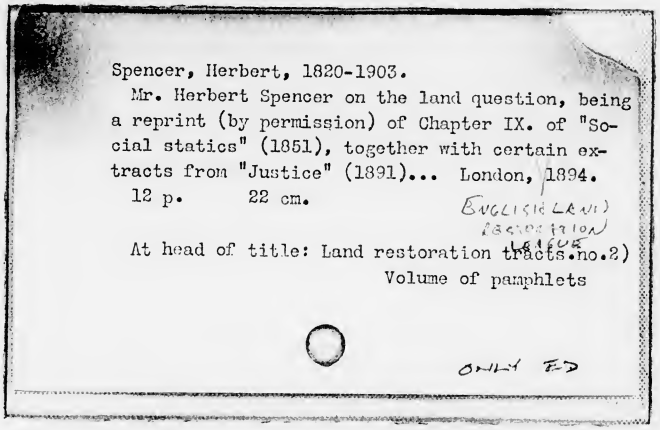

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Land Restoration Tracts, No. 2.

MR. HERBERT SPENCER

ON THE

LAND QUESTION.

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BEING A REPRINT (BY PERMISSION) OF CHAPTER IX. OF "SOCIAL STATICS" (1851), TOGETHER WITH CERTAIN EXTRACTS FROM "JUSTICE" (1891).

ONE PENNY.

LONDON:
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December, 1894.

MR. HERBERT SPENCER
ON THE
LAND QUESTION.

"SOCIAL STATICS" (1851).

CHAPTER IX.—THE RIGHT TO THE USE OF THE EARTH.

§ 1. Given a race of beings having like claims to pursue the objects of their desires—given a world adapted to the gratification of those desires—a world into which such beings are similarly born, and it unavoidably follows that they have equal rights to the use of this world. For if each of them "has freedom to do all that he wills provided he infringes not the equal freedom of any other," then each of them is free to use the earth for the satisfaction of his wants, provided he allows all others the same liberty. And conversely, it is manifest that no one, or part of them, may use the earth in such a way as to prevent the rest from similarly using it; seeing that to do this is to assume greater freedom than the rest, and consequently to break the law.

§ 2. Equity, therefore, does not permit property in land. For if *one* portion of the earth's surface may justly become the possession of an individual, and may be held by him for his sole use and benefit, as a thing to which he has an exclusive right, then *other* portions of the earth's surface may be so held; and eventually the *whole* of the earth's surface may be so held; and our planet may thus lapse altogether into private hands. Observe now the dilemma to which this leads. Supposing the entire habitable globe to be so enclosed, it follows that if the land-owners have a valid right to its surface, all who are not land-owners have no right at all to its surface. Hence, such can exist on the earth by sufferance only. They are all trespassers. Save by the permission of the lords of the soil, they can have no room for the soles of their feet. Nay, should the others think fit to deny them a resting-place, these landless men might equitably be expelled from the earth altogether. If, then, the assumption that land can be held as property, involves that the whole globe may become the private domain of a part of its inhabitants; and if, by consequence, the

"JUSTICE" (1891

"SOCIAL STATICS" (1851).

rest of its inhabitants can then exercise their faculties—can then exist even—only by consent of the landowners; it is manifest, that an exclusive possession of the soil necessitates an infringement of the law of equal freedom. For men who cannot "live and move and have their being" without the leave of others, cannot be equally free with those others.

§ 3. Passing from the consideration of the possible to that of the actual, we find yet further reason to deny the rectitude of property in land. It can never be pretended that the existing titles to such property are legitimate. Should any one think so, let him look in the chronicles. Violence, fraud, the prerogative of force, the claims of superior cunning — these are the sources to which those titles may be traced. The original deeds were written with the sword, rather than with the pen: not lawyers, but soldiers, were the conveyancers: blows were the current coin given in payment; and for seals, blood was used in preference to wax. Could valid claims be thus constituted? Hardly. And if not, what becomes of the pretensions of all subsequent holders of estates so obtained? Does sale or bequest generate a right where it did not previously exist? Would the original claimants be nonsuited at the bar of reason, because the thing stolen from them had changed hands? Certainly not. And if one act of transfer can give no title, can many? No: though *nothing* be multiplied for ever, it will not produce *one*. Even the law recognises this principle. An existing holder must, if called upon, substantiate the claims of those from whom he purchased or inherited his property; and any flaw in the original parchment, even though the property should have had a score intermediate owners, quashes his right.

"But Time," say some, "is a great legaliser. Immemorial possession must be taken to constitute a legitimate claim. That which has been held from age to age as private property, and has been bought and sold as such, must now be considered as irrevocably belonging to individuals." To which proposition a willing assent shall be given when its propounders can assign it a definite meaning. To do this, however, they must find satisfactory answers to such questions as How long does it take for what was originally a *wrong* to grow into a *right*?

"JUSTICE" (1891).

Land-ownership was established during this process [of conquest]; and if the genesis of land-ownership was full of iniquities, they were iniquities committed not by the ancestors of any one class of existing men but by the ancestors of all existing men. The remote forefathers of living Englishmen were robbers, who stole the lands of men who were themselves robbers, who behaved in like manner to the robbers who preceded them. The usurpation by the Normans, here complete and there partial, was of lands which, centuries before, had been seized, some by piratical Danes and Norsemen, and some at an earlier time by hordes of invading Frisians or old English. And then the Celtic owners, expelled or enslaved by these, had in bygone ages themselves expropriated the peoples who lived in the underground houses here and there still traceable. What would happen if we tried to restore lands inequitably taken—if Normans had to give them back to Danes and Norse and Frisians, and these again to Celts, and these again to the men who lived in caves and used flint implements? The only imaginable form of the transaction would be a restoration of Great Britain bodily to the Welsh and the Highlanders; and if the Welsh and the Highlanders did not make a kindred restoration, it could only be on the ground that, having not only taken the land of the Aborigines but killed them, they had thus justified their ownership!—(*Justice*, Appendix B.)

"SOCIAL STATICS" (1851).

At what rate per annum do invalid claims become valid? If a title gets perfect in a thousand years, how much more than perfect will it be in two thousand years?—and so forth. For the solution of which they will require a new calculus.

Whether it may be expedient to admit claims of a certain standing, it is not the point. We have here nothing to do with considerations of conventional privilege or legislative convenience. We have simply to inquire what is the verdict given by pure equity in the matter. And this verdict enjoins a protest against every existing pretension to the individual possession of the soil; and dictates the assertion, that the right of mankind at large to the earth's surface is still valid; all deeds, customs, and laws notwithstanding.

§ 4. Not only have present landtenures an indefensible origin, but it is impossible to discover any mode in which land *can* become private property. Cultivation is commonly considered to give a legitimate title. He who has reclaimed a tract of ground from its primitive wildness is supposed to have thereby made it his own. But if his right is disputed, by what system of logic can he vindicate it? Let us listen a moment to his pleadings.

"Hallo, you, Sir," cries the cosmopolite to some backwoodsman, smoking at the door of his shanty, "by what authority do you take possession of these acres that you have cleared; round which you have put up a snakefence, and on which you have built this log house?"

"By what authority? I squatted here because there was no one to say nay—because I was as much at liberty to do so as any other man. Besides, now that I have cut down the wood, and ploughed and cropped the ground, this farm is more mine than yours, or anybody's; and I mean to keep it."

"Ay, so you all say. But I do not yet see how you have substantiated your claim. When you came here you found the land producing trees—sugar-maples, perhaps; or it may be it was covered with prairie-grass and wild strawberries. Well, instead of these you made it yield wheat, or maize, or tobacco. Now I want to understand how, by exterminating one set of plants, and making the soil bear another set in their place, you have constituted yourself lord of this soil for all succeeding time."

"JUSTICE" (1891).

"Oh, those natural products which I destroyed were of little or no use; whereas I caused the earth to bring forth things good for food—things that help to give life and happiness."

"Still you have not shown why such a process makes the portion of earth you have so modified yours. What is it that you have done? You have turned over the soil to a few inches in depth with a spade or a plough; you have scattered over this prepared surface a few seeds; and you have gathered the fruits which the sun, rain, and air, helped the soil to produce. Just tell me, if you please, by what magic have these acts made you sole owner of that vast mass of matter, having for its base the surface of your estate, and for its apex the centre of the globe? all of which it appears you would monopolise to yourself and your descendants for ever."

"Well, if it isn't mine, whose is it? I have dispossessed nobody. When I crossed the Mississippi yonder I found nothing but the silent woods. If some one else had settled here, and made this clearing, he would have had as good a right to the location as I have. I have done nothing but what any other person was at liberty to do had he come before me. Whilst they were unreclaimed these lands belonged to all men—as much to one as to another—and they are now mine simply because I was the first to discover and improve them.

"You say truly, when you say that 'whilst they were unreclaimed these lands belonged to all men.' And it is my duty to tell you that they belong to all men still; and that your 'improvements,' as you call them, cannot vitiate the claim of all men. You may plough and harrow, and sow and reap; you may turn over the soil as often as you like; but all your manipulations will fail to make that soil yours, which was not yours to begin with. Let me put a case. Suppose now that in the course of your wanderings you come upon an empty house, which in spite of its dilapidated state takes your fancy; suppose that with the intention of making it your abode you expend much time and trouble in repairing it—that you paint and paper, and whitewash, and at considerable cost bring it into a habitable state. Suppose further, that on some fatal day a stranger is announced, who turns out to be the heir to whom this house has been bequeathed; and that this professed heir is prepared with all the necessary proofs of his identity: what becomes of your improvements? Do they give you a valid title to the house? Do they quash the title of the original claimant?"

"No."

"Neither then do your pioneering operations give you a valid title to this land. Neither do they quash the title of its original claimants—the human race. The world is God's bequest to mankind. All men are joint heirs to it; you amongst the number. And because you have taken up your residence on a certain part of it, and have subdued, cultivated, beautified that part—improved it as you say, you are not therefore warranted in appropriating it as entirely private property. At least if you do so, you may at any moment be justly expelled by the lawful owner—Society."

"Well, but surely you would not eject me without making some recompense for the great additional value I have given to this tract, by reducing what was a wilderness into fertile fields. You would not turn me adrift and deprive me of all the benefit of those years of toil it has cost me to bring this spot into its present state."

"Of course not: just as in the case of the house, you would have an equitable title to compensation from the proprietor for repairs and new fittings, so the community cannot justly take possession of this estate without paying for all that you have done to it. This extra worth which your labour has imparted to it is fairly yours; and although you have, without leave, busied yourself in bettering what belongs to the community, yet no doubt the community will duly discharge your claim. But admitting this is quite a different thing from recognising your right to the land itself. It may be true that you are entitled to compensation for the improvements this enclosure has received at your hands; and at the same time it may be equally true that no act, form, proceeding, or ceremony can make this enclosure your private property."

§ 5. It does indeed at first sight seem possible for the earth to become the exclusive possession of individuals by some process of equitable distribution. "Why," it may be asked, "should not men agree to a fair subdivision? If all are co-heirs, why may not the estate be equally appor-

All which can be claimed for the community is the surface of the country in its original unsubdued state. To all that value given to it by clearing, breaking-up, prolonged culture, fencing, draining, making roads, farm buildings, &c., constituting nearly all its value, the community has no claim. This value has been given either by personal labour, or by labour paid for, or by ancestral labour; or else the value given to it in such ways has been purchased by legitimately earned money. All this value artificially given vests in existing owners, and cannot without a gigantic robbery be taken from them. If, during the many transactions which have brought about existing land-ownership, there have been much violence and much fraud, these have been small compared with the violence and the fraud which the community would be guilty of did it take possession, without paying for it, of that artificial value which the labour of nearly two thousand years has given to the land.—*Justice*, p. 92.

tioned, and each be afterwards perfect maste· of his own share?"

To ·his question it may in the first place ·e replied, that such a division is vet·ed by the difficulty of fixing the va·lues of respective tracts of land. Varia·ions in productiveness, different degree·s of accessibility, advantages of climate, proximity to the centres of civilisation — these, and other such considerations, remove the problem out of the sphere of mere mensuration i·to the region of impossibility.

But waiving this, let us inquire who are t· be the allottees. Shall adult males and all who have reached twent·-one on a specified day, be the fortur·ate individuals? If so, what is to be·come with those who come of age on the morrow? Is it proposed that each man, woman, and child, shall have ·s section? If so, what becomes of al who are to be born next year? And what will be the fate of those whose fathers sell their estates and squander the proceeds? These portionless ones must constitute a class already described as having no right to a resting place on earth—as living by the sufferance of their fellowmen—as being practically serfs. And the e·istence of such a class is wholly at va·iance with the law of equal freede·m.

Un·il, therefore, we can produce a valid commission authorising us to make this distribution—until it can be prove·l that God has given one charter of pr·ivileges to one generation, and anothe·r to the next—until we can demo·nstrate that men born after a certa·n date are doomed to slavery, we must consider that no such allotment is permissible

§ ·. Probably some will regard the diffic·ulties inseparable from individual ·wnership of the soil, as caused by· pushing to excess a doctrine applicable only within rational limits. This ·is a very favourite style of thinking with some. There are people who hate anything in the shape of exact conclusions; and these are of them. Accoording to such, the right is never in e·ther extreme, but always half way ·etween the extremes. They are conti·ually trying to reconcile *Yes* and *No*. Ifs and buts, and excepts are their delight. They have so great a faith in the "judicious mean" that they would scarcely believe an oracle, if it uttered a full-length principle. Were ·ou to inquire of them whether the e·rth turns on its axis from East

to West, or from West to East, you might almost expect the reply—"A little of both," or "Not exactly either." It is doubtful whether they would assent to the axiom that the whole is greater than its part, without making some qualification. They have a passion for compromises. To meet their taste, Truth must always be spiced with a little Error. They cannot conceive of a pure, definite, entire, and unlimited law. And hence, in discussions like the present, they are constantly petitioning for limitations—always wishing to abate, and modify, and moderate—ever protesting against doctrines being pursued to their ultimate consequences.

But it behoves such to recollect, that ethical truth is as exact and as peremptory as physical truth; and that in this matter of land-tenure, the verdict of morality must be distinctly *yea* or *nay*. Either men *have* a right to make the soil private property, or they *have not*. There is no medium. We must choose one of the two positions. There can be no half-and-half opinion. In the nature of things the fact must be either one way or the other.

If men *have not* such a right, we are at once delivered from the several predicaments already pointed out. If they *have* such a right, then is that right absolute, sacred, not on any pretence to be violated. If they *have* such a right, then is his Grace of Leeds justified in warning-off tourists from Ben Mac Dhui, the Duke of Atholl in closing Glen Tilt, the Duke of Buccleuch in denying sites to the Free Church, and the Duke of Sutherland in banishing the Highlanders to make room for sheep-walks. If they *have* such a right, then it would be proper for the sole proprietor of any kingdom—a Jersey or Guernsey, for example—to impose just what regulations he might choose on its inhabitants—to tell them that they should not live on his property, unless they professed a certain religion, spoke a particular language, paid him a specified reverence, adopted an authorised dress, and conformed to all other conditions he might see fit to make. If they *have* such a right, then is there truth in that tenet of the ultra-Tory school, that the land-owners are the only legitimate rulers of a country—that the people at large remain in it only by the land-owners' permission, and ought consequently to submit to

It is tacitly assumed that those who now own lands are the posterity of the usurpers, and that those who now have no lands are the posterity of those whose lands were usurped. But this is far from being the case. The fact that among the nobility there are very few whose titles go back to the days when the last usurpations took place, and none to the days when there took place the original usurpations; joined with the fact that among existing landowners there are many whose names imply artizan-ancestors; show that we have not now to deal with descendants of those who unjustly appropriated the land. While, conversely, the numbers of the landless whose names prove that their forefathers belonged to the higher ranks (numbers which must be doubled to take account of intermarriages with female descendants) show that among those that are now without land, many inherit the blood of the land-usurpers. Hence, that bitter feeling towards the lauded which

the land-owners' rule, and respect whatever institutions the land-owners set up. There is no escape from these inferences. They are necessary corollaries to the theory that the earth can become individual property. And they can only be repudiated by denying that theory.

§ 7. After all, nobody does implicitly believe in landlordism. We hear of estates being held under the king, that is, the State; or of their being kept in trust for the public benefit; and not that they are the inalienable possessions of their nominal owners. Moreover, we daily deny landlordism by our legislation. Is a canal, a railway, or a turnpike road to be made? we do not scruple to seize just as many acres as may be requisite; allowing the holders compensation for the capital invested. We do not wait for consent. An Act of Parliament supersedes the authority of title deeds, and serves proprietors with notices to quit, whether they will or not. Either this is equitable or it is not. Either the public are free to resume as much of the earth's surface as they think fit, or the titles of the land-owners must be considered absolute, and all national works must be postponed until lords and squires please to part with the requisite slices of their estates. If we decide that the claims of individual ownership must give way, then we imply that the right of the nation at large to the soil is supreme—that the right of private possession only exists by general consent—that general consent being withdrawn it ceases—or, in other words, that it is no right at all.

§ 8. "But to what does this doctrine that men are equally entitled to the use of the earth, lead? Must we return to the times of unenclosed wilds and subsist on roots, berries, and game? Or are we to be left to the management of Messrs. Fourier, Owen, Louis Blanc, & Co.?"

Neither. Such a doctrine is consistent with the highest state of civilisation; may be carried out without involving a community of goods; and need cause no very serious revolution in existing arrangements. The change required would simply be a change of landlords. Separate ownerships would merge into the joint-stock ownership of the public. Instead of being in the possession of individuals, the country would be held by the great corporate body—Society. Instead of leasing his acres from an isolated proprietor, the farmer would lease them

contemplation of the past generates in many of the landless, is in great measure misplaced. They are themselves to a considerable extent descendants of the sinners; while those they scowl at are to a considerable extent descendants of the sinned-against.—*Justice*, Appendix B.

If we are to go back upon the past at all, we must go back upon the past wholly, and take account not only of that which the people at large have lost by private appropriation of land, but also that which they have received in the form of a share of the returns—we must take account, that is, of Poor-Law relief. Mr. T. Mackay, author of *The English Poor*, has kindly furnished me with the following memoranda, showing something like the total amount of this since the 43rd Elizabeth (1601) in England and Wales.

"Sir G. Nicholls [History of Poor Law, appendix to Vol. II.] ventures no estimate till 1688. At that date he puts the poor rate at nearly £700,000 a year. Till the beginning of this century the amounts are based more or less on estimate.

1601-1630.	say	3 millions.
1631-1700.	[1688 Nicholls puts at 700,000.]	30 ,,
1701-1720.	[1701 Nicholls puts at 900,000.]	20 ,,
1721-1760.	[1760 Nicholls says 1¼ millions.]	40 ,,
1761-1775.	[1775 put at 1½ millions.]	22 ,,
1776-1800.	[1784 2 millions.]	50 ,,
1801-1812.	[1803 4 millions; 1813 6 millions.]	65 ,,
1813-1840.	[based on exact figures given by Sir G. Nicholls.]	170 ,,
1841-1890.	[based on Mulhall's Dict. of Statistics and Statistical Abstract.]	334 ,,
		734 millions.

The above represents the amount *expended* in relief of the poor.

from the nation. Instead of paying his rent to the agent of Sir John or his Grace, he would pay it to an agent or deputy-agent of the community. Stewards would be public officials instead of private ones; and tenancy the only land-tenure.

A state of things so ordered would be in perfect harmony with the moral law. Under it all men would be equally landlords; all men would be alike free to become tenants. A, B, C, and the rest might compete for a vacant farm as now, and one of them might take that farm without in any way violating the principles of pure equity. All would be equally free to bid; all would be equally free to refrain. And when the farm had been let to A, B, or C, all parties would have done that which they willed—the one in choosing to pay a given sum to his fellow-men for the use of certain lands—the others in refusing to pay that sum. Clearly, therefore, on such a system, the earth might be enclosed, occupied, and cultivated, in entire subordination to the law of equal freedom.

§ 9. No doubt great difficulties must attend the resumption, by mankind at large, of their rights to the soil. The question of compensation to existing proprietors is a complicated one—one that perhaps cannot be settled in a strictly equitable manner. Had we to deal with the parties who originally robbed the human race of its heritage we might make short work of the matter. But, unfortunately, most of our present land-owners are men who have, either mediately or immediately—either by their own acts, or by the acts of their ancestors—given for their estates, equivalents of honestly-earned wealth, believing that they were investing their savings in a legitimate manner. To justly estimate and liquidate the claims of such, is one of the most intricate problems Society will one day have to solve. But with this perplexity and our extrication from it, abstract morality has no concern. Men having got themselves into the dilemma by disobedience to the law, must get out of it as well as they can; and with as little injury to the landed class as may be.

Meanwhile, we shall do well to recollect, that there are others besides the landed class to be considered. In our tender regard for the vested interests of the few, let us not forget that the rights of the many are in abeyance and must remain so, as

"Under the general term 'poor rate,' moneys have always been collected for other purposes—county, borough, police rates, &c. The following table shows the annual amounts of these in connection with the annual amounts expended on the poor:—

		Total levied.	Expended on poor.	Other purposes *balance*.
Sir G. Nicholls.	In 1803.	5,348,000	4,077,000	1,271,000 ?
	,, 1813.	8,040,841	6,656,106	1,990,735 ?
	,, 1833.	6,522,412	4,939,064	1,583,411 ?
Statistical abstract	,, 1875.	12,694,208	7,488,481	Sum spent. 5,205,727
	,, 1889.	15,970,126	8,366,477	7,603,649

"In addition, therefore, to sums set out in the first table, there is a further sum, rising during the century from 1½ to 7½ millions per annum 'for other purposes.'

"Mulhall, on whom I relied for figures between 1833 and 1875 does not give 'other expenditure.'"

Of course of the £734,000,000 given to the poorer members of the landless class during three centuries, a part has arisen from rates on houses; only such portion of which as is chargeable against ground rents, being rightly included in the sum the land has contributed. From a land-owner, who is at the same time a Queen's Counsel, frequently employed professionally to arbitrate in questions of local taxation, I have received the opinion that if, out of the total sum received by the poor, £500,000,000 is credited to the land, this will be an under-estimate.

* * *

Hence, therefore, the question arises—What is the relation between the original "prairie value" of the land,

"SOCIAL STATICS" (1851).

long as the earth is monopolised by individuals. Let us remember, too, that the injustice thus inflicted on the mass of mankind, is an injustice of the gravest nature. The fact that it is not so regarded, proves nothing. In early phases of civilisation even homicide is thought lightly of. The suttees of India, together with the practice elsewhere followed of sacrificing a hecatomb of human victims at the burial of a chief, shows this; and probably cannibals consider the slaughter of those whom "the fortune of war" has made their prisoners, perfectly justifiable. It was once also universally supposed that slavery was a natural and quite legitimate institution—a condition into which some were born, and to which they ought to submit as to a Divine ordination; nay, indeed, a great proportion of mankind hold this opinion still. A higher social development, however, has generated in us a better faith, and we now to a considerable extent recognise the claims of humanity. But our civilisation is only partial. It may by-and-by be perceived, that Equity utters dictates to which we have not yet listened; and men may then learn, that to deprive others of their rights to the use of the earth, is to commit a crime inferior only in wickedness to the crime of taking away their lives or personal liberties.

§ 10. Briefly reviewing the argument, we see that the right of each man to the use of the earth, limited only by the like rights of his fellow-men, is immediately deducible from the law of equal freedom. We see that the maintenance of this right necessarily forbids private property in land. On examination all existing titles to such property turn out to be invalid; those founded on reclamation inclusive. It appears that not even an equal apportionment of the earth amongst its inhabitants could generate a legitimate proprietorship. We find that if pushed to its ultimate consequences, a claim to exclusive possession of the soil involves a landowning despotism. We further find that such a claim is constantly denied by the enactments of our legislature. And we find lastly, that the theory of the co-heirship of all men to the soil, is consistent with the highest civilisation; and that, however, difficult it may be to embody that theory in fact, Equity sternly commands it to be done.

"JUSTICE" (1891).

and the amount which the poorer among the landless have received during these three centuries. Probably the landowners would contend that for the land in its primitive, unsubdued state, furnishing nothing but wild animals and wild fruits, £500,000,000 would be a high price.

When, in *Social Statics*, published in 1850, I drew from the law of equal freedom the corollary that the land could not equitably be alienated from the community, and argued that, after compensating its existing holders, it should be re-appropriated by the community, I overlooked the foregoing considerations. Moreover, I did not clearly see what would be implied by the giving of compensation for all that value which the labour of ages has given to the land. While, as shown in Chap. XI., I adhere to the inference originally drawn, that the aggregate of men forming the community are the supreme owners of the land—an inference harmonising with legal doctrine and daily acted upon in legislation—a fuller consideration of the matter has led me to the conclusion that individual ownership, subject to State-suzerainty, should be maintained.—*Justice*, Appendix B.

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